

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

RONALD DAVID SUTHERLAND,	§	
	§	
Petitioner,	§	
	§	Civil Action No. 7:13-CV-120-D
VS.	§	
	§	
WILLIAM STEPHENS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

**ORDER**

After making an independent review of the pleadings, files, and records in this case, the September 17, 2015 findings, conclusions, and recommendation of the magistrate judge, petitioner's September 29, 2015 objections, and petitioner's October 2, 2015 amended objections, the court concludes that the findings and conclusions are correct.\* It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Petitioner's September 14, 2015 motion to appoint counsel is denied.

Considering the record in this case, and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), petitioner's September 29, 2015 application for a certificate of appealability is denied. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists

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\*In the findings, conclusions, and recommendation, the words "trial," "colloquy," and "prescribed" are sometimes misspelled. These editorial errors have not affected the correctness of the findings, conclusions, and recommendation themselves.

would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).


If petitioner files a notice of appeal,

( ) petitioner may proceed *in forma pauperis* on appeal.

(X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

**SO ORDERED.**

December 29, 2015.

  
SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE